Supreme Court, U.S.
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No. 01-144

In The

Supreme Court of the United States

FULTON COUNTY, GEORGIA, et al.,

Petitioners,

v.

FLANIGAN'S ENTERPRISES, INC. OF GEORGIA, et al.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

RESPONDENTS FLANIGAN'S ENTERPRISES, INC. OF GEORGIA, 6420 ROSWELL ROAD, INC., HARRY FREESE, FANNIES, INC., AND WILLIAM H. PARKS, JR.'S SUPPLEMENTAL BRIEF IN OPPOSITION

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INCORPORATION BY REFERENCE

Respondents incorporate by reference herein the portions of their Brief in Opposition titled Parties to the Proceeding and Statement Pursuant to Rule 29.6.

SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

The Ordinance has been expressly repealed. Flanigan's Enterprises, Inc. of Georgia, 6420 Roswell Road, Inc., Harry Freese, Fannies, Inc., and William H. Parks, Jr. (collectively "the Clubs") believe that the repealer renders the Petition for Writ of Certiorari moot.

SUPPLEMENT TO STATEMENT OF THE CASE

On or about August 15, 2001, Fulton County and its Board of Commissioners (collectively "the County") enacted a new comprehensive adult entertainment code titled "Article III, Adult Entertainment Establishments" ("the 2001 Ordinance.") *See* Appendix A. Among the provisions contained in the 2001 Ordinance is a repealer. *See* Section 18-93. The repealer section provides "[a]ny provisions of Chapter 18, Article III of the Code of Laws of Fulton County inconsistent herewith are hereby repealed, specifically, sections 18-76 through 18-145." *Id.* This Court will note that the Ordinance, which is the subject of the County's Petition, was previously codified as Fulton County Code § 18-76(7). *See* Pet. at 46a-50a.

When repealing the Ordinance, the County enacted a similarly worded provision under a different section, § 18-79(17). That section provides "no alcoholic beverages of any kind shall be sold, possessed or consumed on the premises of an adult entertainment establishment." To

date, the Clubs have not challenged the factual record supporting the 2001 Ordinance.

ARGUMENT

This case now concerns an ordinance which has been repealed and replaced. Following the Eleventh Circuit's decision wherein it held that Fulton County lacked an adequate factual basis to apply the Ordinance to the Clubs, the County repealed the Ordinance. It then compiled another legislative record to enact an admittedly similar ordinance provision. Today, however, whether this Court determines that the County had an adequate factual basis to support the Ordinance or not, the Clubs are no longer seeking declaratory relief from the Ordinance.

"[A]ny challenge to the new law 'presents a different case,' " and therefore the proper course is to decline to grant certiorari. *Cf. Northeastern Florida Chapter of Associated General Contractors v. City of Jacksonville*, 508 U.S. 656, 675 (1993) *quoting Allee v. Medrano*, 416 U.S. 802, 818 (1974) (J., O'Connor, dissenting). As stated in the Brief in Opposition, every First Amendment case turns on its own facts. The 2001 Ordinance rests upon different facts. Thus, to render a decision on the Ordinance would be to render an advisory opinion. *Compare Diffenderfer v. Central Baptist Church of Miami, Inc.*, 404 U.S. 412 (1972).

CONCLUSION

Because the County seeks an advisory opinion, and because the Ordinance has been repealed, the Petition must be denied.

Respectfully submitted,

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APPENDIX A

ARTICLE III. ADULT ENTERTAINMENT ESTABLISHMENTS

DIVISION 1. GENERALLY

Sections:

18-76 Purpose and Preamble.
18-77 Severability and conflict.
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18-80 Unlawful operation declared nuisance; compliance with state laws, local ordinances, regulations, and codes required.

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CHAPTER 18 BUSINESSES

ARTICLE III. ADULT ENTERTAINMENT ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 18-76 Purpose and Preamble.

The purpose of this Article is to regulate adult entertainment establishments with the intention that, through this ordinance, many types of criminal activities frequently engendered by such businesses and the adverse effect on property values and on the public health, safety, and welfare of the County, and on its citizens and property, and on the character of its neighborhoods and development, will be curtailed and/or prevented. This Article is not intended as a de facto prohibition of legally protected forms of expression. This Article is intended to represent a balancing of competing interests; reduced criminal activity and protection of neighborhoods and

development through the regulation of adult entertainment establishments versus any legally protected rights of adult entertainment establishments and patrons. This Article is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.

Sec. 18-77 Severability and conflict.

1. Should any section or provision of this Article be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Article as a whole nor any part hereof other than the part so declared to be invalid or unconstitutional.

2. Should any section or provision of this Article be in conflict with any other ordinance, rule, regulation, or law, the more restrictive section or provision shall prevail.

Sec. 18-78 Definitions.

As used in this Article, the following words or phrases shall have the following meanings:

1. "Adult bookstore" is a bookstore having as a preponderance of its publications, books, magazines, periodicals, videotapes, and other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

2. "Adult entertainment" means the permitting, performing, or engaging in live acts:

    a. Of touching, caressing, or fondling of the breasts, buttocks, anus, vulva, or genitals;

b. Of displaying of any portion of the areola of the female breast or any portion of his or her pubic hair, cleft of the buttocks, anus, vulva, or genitals;

c. Of displaying of pubic hair, anus, vulva, or genitals; or

d. Which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, or flagellation.

3. "Adult entertainment establishment" means the premises of any facility upon which an adult entertainment business or adult bookstore operates or upon which such defined activities occur. The definition of an adult entertainment establishment shall not apply to nor prohibit the live performance of legitimate plays, operas, ballets, or concerts at a concert house, museum, or educational institution or facility holding an alcoholic beverage license, which derives less than 20 percent of its gross receipts from the sale of alcoholic beverages.

4. "Board of Commissioners/Board" means the Board of Commissioners of Fulton County, Georgia or its designee(s).

5. "Church" means a temple, building, or other house of religious worship consecrated to the honor of God or other supreme being and religion; or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship. This shall include, on the same lot, accessory structures and uses such as a minister's or caretaker's residence.

6. "County" means Fulton County, Georgia.

7. "Good moral character", with respect to a person, is defined as the lack of a conviction of, or plead of

guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years and the lack of an outstanding arrest for a drug or alcohol-related felony or sex-related crime.

8. "Employee". For the purposes of this Article, an employee is a compensated worker in an adult entertainment establishment, regardless of the method of compensation. Independent contractors shall be considered employees and shall be required to have permits as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

9. "Minor" means any person who has not attained the age of 18 years.

10. "Preponderance" is defined as the state of being greater than, and not equal to, 50 percent.

11. "Specified anatomical areas" shall include less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

12. "Specified sexual activities" shall include any of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse (homosexual or heterosexual) or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

Sec. 18-79 Regulations.

The following regulations shall apply to all adult entertainment establishments, as defined in the preceding section:

1. All employees of an adult entertainment establishment shall be required to obtain an individual employee permit in accordance with the provisions of this Article.

2. All adult entertainment establishments shall be required to obtain an occupation tax certificate (formally known as a business license) from the Fulton County Tax Commissioner's Office in accordance with the provisions set forth in § 18-31, *et seq.* of the Fulton County Code. In addition to the occupation tax certificate, all such establishments shall obtain an adult entertainment license for its operation in accordance with this Article.

3. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this Article. Such license shall be displayed in a prominent place on the premises at all times.

4. An adult entertainment establishment licensee shall maintain and retain for a period of 3 years records showing the names, addresses, and ages of all persons employed as dancers. All records are subject to inspection at any time by the Fulton County Tax Commissioner's Office and/or Police Department.

5. No adult entertainment establishment licensee shall employ or contract with a person as a dancer who is under the age of 18 years or a person not licensed pursuant to this Article.

6. It is unlawful for a licensee to admit or permit the admission of anyone under 18 years of age into an adult entertainment establishment. Furthermore, it is unlawful for any person to sell, barter, or give to any minor any service, material, device, or thing sold or offered for sale by an adult entertainment establishment.

7. Adult entertainment establishments shall be closed between the hours of 2:55 a.m. and 9:00 a.m. on Sundays and between 4:00 a.m. and 9:00 a.m. on all other days.

8. No employee shall fondle or caress any patron and no patron shall fondle or caress any employee.

9. All dancing and adult entertainment shall occur on a stage intended for that purpose which is raised at least 2 feet from the next-highest level of the remainder of the floor and which is permanently affixed to the flooring of the establishment. No patron shall be permitted on such a stage. All such stages are subject to and must conform with any applicable building and fire code(s).

10. No tips for any employee shall be placed on the person of the performer except by hand to hand contact. No employee shall solicit any pay or gratuity from any patron.

11. Employees of an adult entertainment establishment shall be not less than 18 years of age.

12. All premises licensed under this Article shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Interior lighting shall be at least negative (-) 3 foot candles per square foot.

13. No person shall conduct any illegal activity in or upon any premises licensed under this Article.

14. No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or medical related-reasons.

15. No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.

16. No person, while on licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein.

17. No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises of an adult entertainment establishment.

18. No adult entertainment establishment shall be conducted, operated or licensed if any adult entertainment activity on the premises is visible from the exterior of the premises.

19. No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except for separate offices, kitchens, restrooms or other areas not frequented by patrons.

20. All premises shall be kept clean and in proper sanitary condition and in accordance with all state laws and local ordinances. Adequate facilities, equipment, and supplies shall be provided to meet this requirement and adequate ventilation and illumination shall be provided to permit a thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation. The licensee or his designee shall make sanitary inspections of the premises at least every 15 days and shall record his findings on forms supplied by the Fulton County Health Department. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

Sec. 18-80 Unlawful operation declared nuisance; compliance with state laws, local ordinances, regulations, and codes required.

1. Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Article is hereby declared to be unlawful and a public nuisance. The County may, in addition to or in lieu of all other remedies, commence an action or proceeding for abatement, removal or enjoinment thereof, in the manner provided by law.

2. No adult entertainment establishment shall be conducted on any premises which do not comply with all current zoning, building code, health, fire, and other applicable County ordinances and state laws and regulations.

DIVISION 2. LICENSE AND PERMIT

Sec. 18-81 Adult entertainment establishment employees and employee permits.

1. Approval for employment. Before any person may work in an adult entertainment establishment, the person shall file an application for an employee permit with the Alcohol and business Tax Division of the Fulton County Tax Commissioner's Office on forms provided by said office. A non-refundable investigation fee of $50.00 and a $300.00 permit fee for all employees shall accompany the permit application. The Tax Commissioner's Office shall issue a receipt showing that such fee has been paid.

2. Said application shall contain the following:

   a. Name, address, date of birth, sex, and social security number of applicant;

b. The name, address, and phone number of the adult entertainment establishment applicant will be employed with; and

c. A fingerprint of applicant made by the Fulton County Police Department. Fingerprints must be made at least 15 days prior to the issuance of an employee permit to allow for the investigation of the applicant. Said fingerprints shall be attached to the application for the permit.

3. The Fulton County Business Tax Division must be notified of any change in the above information (such as employment with another adult entertainment establishment or name or address change) within 15 days of such change.

4. Any material omission or untrue or misleading information contained in or left out of an employee permit application shall be unlawful and shall be cause for a denial, suspension or revocation thereof, and shall be punishable as a violation of this Ordinance.

5. The County shall have 30 days from the date the application is submitted to investigate the information presented in the permit application. If the employee is found to be of good moral character as defined in this Article, and all other application requirements are met, the Tax Commissioner shall grant approval of the permit and send notification to the employee via U.S. mail to the address listed on the application. If no decision is issued within the 30 day period, the employee's permit shall automatically issue on the 40th day. Upon approval, the employee may begin working on the regulated premises.

6. If approval is denied, the prospective employee may, within 10 days of notice of said denial, apply to the

Board of Commissioners for a hearing. The Board shall consider the appeal at its next regularly scheduled meeting at which time it shall make a decision to grant or deny the permit in accordance with the requirements of this section. The decision of the Board of Commissioners with regard to whether or not to grant or deny the permit is a final action.

7. Each employee permit is valid for a period of 1 year from the date of issuance. Renewal permits shall be granted for a non-refundable fee of $50.00 subject to an updated investigation by the Fulton County Police Department based upon the information contained in the employee's application on file at the time of the renewal.

8. No permit issued under this section shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such permit of the time, place, and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the employee via U.S. mail to the address listed on the application form. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify. The decision of the Board with regard to the suspension or revocation of an employee's permit is a final action; therefore, any appeal of such decision may be pursued by an application for Writ of Certiorari by the prospective employee within 30 days of the Board's decision.

9. The following shall constitute due cause for the suspension or revocation of an employee permit:

   a. If an employee has been granted an employee permit under the terms of this section but his/

her permit application is later found to have contained any material omission or untrue or misleading information.

b. If an employee pleads guilty or nolo contendere or is arrested for or convicted of a drug or alcohol related felony, sex-related crime, or a crime involving moral turpitude.

Sec. 18-82 Application for an adult entertainment establishment license.

1. Any person or business entity desiring to operate an adult entertainment establishment within Fulton County shall be required to obtain, in addition to the occupation tax certificate, an adult entertainment establishment license ("license") issued by the Fulton County Tax Commissioner's Office.

2. It is unlawful for any person or business entity to operate within Fulton County any adult entertainment establishment, as defined in this Article, without a valid adult entertainment establishment license. No such license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.

3. A non-refundable processing fee of $6,000.00 shall accompany the adult entertainment license application to defray, in part, the cost of investigation and report required by this Article The Tax Commissioner's Office shall issue a receipt showing that such fee has been paid.

4. The application for license does not authorize the engaging in, operation of, conducting of or carrying on of any adult entertainment activities in such an establishment.

Sec. 18-83 Adult entertainment license application contents.

Each application for an adult entertainment establishment license shall contain the following information:

1. The applicant's full true name.
2. The present address, telephone number, and social security number (or federal tax identification number) of the applicant.
3. Acceptable written proof that the applicant is at least 18 years of age.
4. Business, occupation, or employment history of the applicant for the 5 years preceding the date of application. Business and employment records for this time period shall be made available to the County upon request.
5. The adult entertainment establishment license or business license history of the applicant and whether such applicant, in previous operations in Fulton County or any other state or political subdivision thereof, has had any such licenses revoked or suspended and the reason(s) therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as showing in its articles of incorporation or charter, together with the place and date of incorporation, the names and addresses of each of its current officers and directors, and a copy of its articles of incorporation filed with the Secretary of State. If the applicant is a limited liability company, a copy of its articles of organization filed with the Secretary of State,

together with the names and addresses of each of its members and manager(s), if applicable. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership election filed with the applicable Clerk of Superior Court. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporation shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this Article, but only one application fee shall be charged.

7. If the applicant, any partners, members, managers, corporate officers or directors have been convicted of, or pleaded guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years or has an outstanding arrest for a drug or alcohol-related felony or sex-related crime, a complete description of any such crime including date of violation, date of conviction, jurisdiction, and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.

8. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded.

9. Address of the premises to be regulated and whether the premises are owned or rented.

10. A statement that said adult entertainment establishment meets all applicable County ordinances and state laws and regulations.

11. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:

    a. The applicant if the applicant is an individual;

    b. By the managing or general partner if the applicant is a partnership;

    c. By the president of the corporation if the applicant is a corporation;

    d. By the members or manager(s) of a limited liability company; or

    e. By the chief administrative official if the applicant is any other organization or association.

12. Each application must be complete in its entirety before being accepted by the County for filing and processing. All applicants shall furnish all data, information, and records pertinent to obtaining an adult entertainment establishment license which is requested by the County and failure to furnish such data, information, and records shall suspend the application process until the data, information and records are submitted and if not submitted within 30 days from the date of such request, the application shall be deemed withdrawn.

Sec. 18-84 Application investigation.

The County shall have 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation) from the receipt of a completed application to make a decision in which to grant or deny an adult entertainment establishment

license. The Tax Commissioner shall make a recommendation to the Board of Commissioners regarding the approval or denial of the license and the Board shall make the final decision after a public hearing regarding the same. In the event the Board of Commissioners has not granted or denied the application within 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation), the license shall automatically issue and the applicant shall have the right to operate its adult entertainment establishment.

Sec. 18-85 General qualifications of applicant.

No license for an adult entertainment establishment provided for by this Article shall be issued to or held by:

1. Any applicant who has not paid all required fees and taxes for a business at that location.

2. Any person or business entity who is not of good moral character as defined in this Article, is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County, or who has had any license for an adult entertainment establishment or for the sale of alcoholic beverages in Fulton County or any other state or political subdivision thereof previously suspended or revoked.

3. Any applicant whose license had been rejected or withdrawn without permission of the Board of Commissioners within 7 days immediately preceding the date set for the hearing before the board, unless at least 1 year shall have expired from such rejection or

withdrawal of said application. This requirement shall not apply where the applicant applies for a new location that had not been rejected or withdrawn within the 1 year period.

4. Any applicant where there is evidence that, even though there is compliance with the minimum distance requirements as set forth in the Zoning Resolution, the type and number of schools or churches or other such facilities in the vicinity of the adult entertainment establishment causes minors to frequent the immediate area.

5. Any applicant if applicant is a previous holder of any license under this Article or of an alcoholic beverage license, the manner in which the applicant conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business;

6. An applicant if the applicant's spouse could not meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

Sec. 18-86 Notice of intent to operate an adult entertainment establishment.

1. Newspaper Advertisement
   a. The applicant for an adult entertainment license under this Article shall give notice that an application has been filed by publication of an advertisement once a week for 2 consecutive weeks prior to the date of consideration of the application by the board of Commissioners in the newspaper in which legal advertisements are published in Fulton County. Said notice need not

appear on the same day as legal advertisements are regularly published.

b. The advertisement shall not appear more than 30 days prior to the date of such consideration. The advertisement shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column.

c. The advertisement shall contain a particular description of the location of the proposed business and the name of the applicant or business designees named in § 18-83(6) and the time and place of the Board of Commissioners' hearing at which time the license shall be considered.

2. Signage on Property

The applicant shall cause to be placed upon the location of the proposed business a sign stating the following: "A Fulton County Adult Entertainment License has been applied for. Any objection to this application must be made at or prior to ___ o'clock ___, on the day of ___, 20__, in Assembly Hall located at 141 Pryor Street, S.W. Atlanta, Georgia, which is the date and time of Board of Commissioners' hearing." The sign shall be at least 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the newspaper advertisement through the date of the consideration by the board.

Sec. 18-87 Adult entertainment license notice of denial; appeal.

In the event the application for an adult entertainment establishment license is denied by the board of Commissioners, the applicant shall be notified in writing of such denial within 10 days by U.S. mail. A decision by the Board of Commissioners regarding denial of said license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.

Sec. 18-88 Renewal of adult entertainment license.

Each adult entertainment license is valid for a period of 1 year from the date of issuance. The license may be renewed provided that the licensee continues to meet the requirements set out in this Article. Renewal applications are due 2 months prior to the expiration of the license and shall include a non-refundable renewal fee of $4,000.00 prior to an updated investigation by the Fulton County Police based upon the information contained on file at the time of the renewal. In the event no action is taken on the renewal application by the expiration date of the previously issued license, the licensee shall have the right to continue operation for the renewal year.

Sec. 18-89 Adult entertainment licenses are non-transferable.

No license for an adult entertainment establishment may be sold, transferred or assigned by a licensee, or by

operation of law, to any other person(s) or business entity. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepted, however, that if the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case, the license, upon notification to the County, shall be placed in the name of the surviving partner. A license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of such license and is thereafter issued and sold, transferred or assigned. A license issued to a limited liability company shall be deemed terminated and void when any member(s) and manager(s) are added who have not been previously identified on the license application.

Sec. 18-90 Change of location or name of adult entertainment establishment.

1. No licensee shall change the location of the establishment without obtaining a new license. An application for a license due to a change of location is subject to all requirements of this Article.

2. Upon change of the name of the establishment, the licensee must notify the Alcohol and Business Tax

Division of the Fulton County Tax Commissioner's Office within 30 days prior to the change.

3. No licensee shall operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his or her adult entertainment license.

Sec. 18-91 Procedure for suspension of revocation of an adult entertainment license.

1. No license issued under this Article shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such license of the time, place and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the licensee at the last address the licensee provided to the County. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify.

2. The following shall constitute due cause for suspension or revocation of a license:

   a. The violation of any federal or state laws or regulations or local ordinances by either the applicant or business entity that owns, in whole or in part, the adult entertainment establishment;

   b. A determination that said applicant/business designees named in § 18-83(6) no longer meet the requirement of having good moral character, as defined in this Article or that any person or

business entity is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County;

c. If its is discovered that the license application (or renewal application) is found to have contained any material omission or untrue or misleading information; or

d. A violation of any other section of this Article.

3. Following the Board of Commissioners' hearing on this matter, the Board may suspend or revoke the license of the adult entertainment establishment. The decision of the Board with regard to the suspension or revocation of an adult entertainment establishment license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.

4. When any adult entertainment establishment license is revoked or suspended, all signs indicating that such business is conducted on the premises shall be removed, both outside and inside, during the period of revocation or suspension.

Sec. 18-92 Penalty for violation of this Article.

Any person violating the provisions of this Article shall be subject to punishment by a fine not to exceed $1,000.00 or imprisonment for 60 days, or both.

Sec. 18-93 Repealer.

Any provisions of Chapter 18, Article III of the Code of Laws of Fulton County inconsistent herewith are hereby repealed, specifically sections 18-76 through 18-145.

Sec. 18-94 - Effective date.

This Article shall become effective upon the adoption of this Ordinance, except for the provisions regarding obtaining an adult entertainment license for any establishment which has been granted a license prior to the date of adoption of this Ordinance; each such pre-existing establishment must meet the licensing standards of this Ordinance at the time its current adult entertainment license expires.

Sec. 18-95-145 Reserved.